UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

APR 10 2007

Tom Schulze
NJ Transit ARC Project Director
One Penn Plaza East, 4th Floor
Newark, New Jersey 07105

Dear Mr. Schulze:

The Environmental Protection Agency (EPA) has reviewed the draft environmental impact statement (EIS) for the Access to the Region's Core (ARC) project (CEQ# 20070033). This review was conducted in accordance with Section 309 of the Clean Air Act, as amended (42 U.S.C 7609, PL 91-604 12 (a), 84 Stat. 1709), and the National Environmental Policy Act (NEPA).

The purpose of the proposed project is to increase the capacity of the trans-Hudson commuter rail system, provide new one-seat ride service to midtown Manhattan from various rail lines in New Jersey, provide a new station in New York City to relieve inadequate conditions at Penn Station, New York (PSNY) and enhance trans-Hudson commuter safety. The draft EIS proposes two alternatives: no build; and a build alternative that would increase capacity through the construction of two new tracks east of Secaucus Junction Station, tunnels under the Palisades and the Hudson River, and connections with both PSNY and a new station under West 34th Street between Sixth and Eight Avenues in midtown Manhattan.

In general, EPA is supportive of public transportation projects because of their potential to improve air quality, reduce traffic congestion, and provide opportunities for energy conservation. We also note that this particular project would compliment recently completed and proposed improvements to New Jersey Transit's (NJT) commuter rail network. However, we do have a number of specific comments concerning the draft EIS.

New Kearny Yard – Site Remediation

EPA supports the use of the Koppers Coke, Standard Chlorine, and Diamond Shamrock properties in Kearny, New Jersey as a rail yard as an appropriate brownfield activity. However, environmentally sound use is contingent upon the remediation of all three sites under approved state and federal closure plans. We understand that under the ARC project, it is probable that only Koppers Coke and Standard Chlorine will be used for a rail yard. However, as part of the Portal Bridge project, a rail spur may be proposed to go through the Diamond Shamrock site to afford access to the new Kearny Yard from the Northeast Corridor line. Should this be the case, we recommend that NJT investigate the possibility of linking the site closure plans, particularly Standard Chlorine and Diamond Shamrock, as this may provide the most effective and economic remedy. EPA Region 2's Emergency and Remedial Response Division will coordinate closely with NJT on this aspect of the project.

Wetlands

On page 4.8-7, the draft EIS indicates that the entire Koppers Coke site was assessed in a post-cap condition, consisting of an early successional upland herbaceous vegetative community. Even though the New Jersey Department of Environmental Protection has conditionally approved a Remedial Action Workplan, EPA suggests that NJT evaluate the wetlands presently on the Koppers Coke site, and include them in the final EIS as part of the impacted wetlands total, rather than assume that mitigation will be completed in the currently identified manner.

Also, EPA suggests that NJT look at the possibility of providing wetlands mitigation for both the ARC and Portal Bridge projects together, as a larger mitigation site will be more ecologically meaningful than two smaller mitigation sites. NJT should continue working with the Meadowlands Interagency Mitigation Advisory Committee (MIMAC) to discuss available mitigation sites.

Open Water

The draft EIS states that should a 2% grade tunnel be used under the Hudson River, additional ground improvement of the riverbed would be needed as the tunnels approach the Manhattan side of the river due to insufficient cover atop the tunnel. The final EIS should provide a more detailed description of the impacts of the use of the large cofferdam for this option, and the smaller cofferdam needed at the eastern shore under both the 2% and 3% grade tunnel options. For example, the final EIS should explain whether the sediment beneath the cofferdam will need to be dredged, and if so, describe plans for testing and disposal of any contaminated sediments.

Air Quality

EPA recommends placing all of the conformity documentation in one section of the document (it is currently split between Sections 4.6 and 5.0), possibly as a stand-alone appendix. Information regarding compliance with the project-level conformity requirements could then be separated from any additional air quality analyses done for NEPA or to satisfy state or local requirements.

In regard to specific analysis issues, we refer to the *Transportation Conformity Guidance for Qualitative Hot-spot Analyses in PM2.5 and PM10 Nonattainment and Maintenance Areas* (EPA420-B-06-902, March, 2006) which establishes the transportation conformity criteria and procedures for determining which transportation projects must be analyzed for local air quality impacts in PM2.5 and PM10 nonattainment and maintenance areas (71 FR 12468). In addition, MOBILE6.2 is currently not an approved model for use in quantitative PM2.5 or PM10 hot-spot analyses for transportation conformity. As such, a discussion regarding the appropriateness of using the MOBILE6.2 is necessary.

Any PM2.5 conformity analyses need to be completed for both the 65 micrograms per cubic meter ($\mu g/m^3$) 24-hour standard and the annual PM2.5 standard. The draft EIS only considers the 24-hour PM2.5 standard. In particular, Tables 4.6-3, 4.6-8, 4.6-11, 4.6-7, 4.6-10, and 4.6-15 should include annual PM2.5 concentrations. Additional page-specific comments on the air quality analyses are enclosed.

A more complete explanation of why the locations for the analyses were selected would be appropriate. Based on the limited information included in the draft EIS, it is not clear that only the Bay Head and Suffern rail yards should be analyzed.

The draft EIS identifies Tier 2 engines for construction equipment as a possible mitigation measure for PM2.5. However, Tier 3 (some available in 2007) and Tier 4 (beginning in 2011) engines will be coming into the market during the project's construction period. As a mitigation strategy, NJT should consider requiring the use of these cleaner, higher-tier engines as soon as they are available. We also encourage NJT to use this strategy to preserve air quality and protect public health at all construction sites, not only in Manhattan.

Finally, we understand that EPA and USDOT are having discussions at the headquarters level regarding which conformity requirements apply to different aspects of this project. As such, additional modifications to the project-level conformity analyses that occur as a result of these discussions should be reflected in the final EIS.

Cumulative Impacts

While the Portal Bridge project has independent utility from the ARC project, the ARC draft EIS must include an evaluation of the impacts from the Portal Bridge project as part of its cumulative impacts analysis. As the Portal Bridge project is necessary to realize the full benefits of the ARC project, many of the construction impacts to air quality and wetlands may occur simultaneously.

Where possible, the draft EIS should quantify cumulative impacts. For example, air quality impacts from the Hudson Yards development can be quantified through analysis of the No. 7 Subway Extension - Hudson Yards Rezoning and Development Program Final Generic Environmental Impact Statement, located on the web at http://www.nyc.gov/html/dcp/html/hyards/eis.shtml.

In light of our concerns over the potential environmental impacts from the proposed project, as well as our recommendations for additional information and analyses, EPA has rated the draft EIS as Environmental Concerns – Insufficient Information ("EC-2") (see enclosed rating sheet). If you have any questions regarding this review or our comments, please contact Lingard Knutson at 212-637-3747.

Sincerely yours,

John Filippelli, Chief
Strategic Planning and Multi-Media Programs Branch

Enclosures

cc: James Govaia, FTA

Page-specific Air Quality Comments

Chapter 4.6

Page 4.6-2, first paragraph of the National and State Ambient Air Quality Standards section: We refer you to EPA's webpage http://www.epa.gov/oar/particlepollution/standards.html for specific dates of PM2.5 standard promulgation and revisions. The annual PM10 standard has already been revoked; we suggest updating that information in the EIS. In addition, EPA will "designate" and not "re-designate" nonattainment areas for the 2006 24-hour PM2.5 standard.

Page 4.6-4, first paragraph: The discussion of the 1-year conformity grace period is unclear. We recommend deleting the sentence that begins "Since the USEPA..." and replacing it with the following language:

> Clean Air Act section 176(c)(6) and the transportation conformity rule (40 CFR 93.102(d)) provide a one-year grace period before conformity is required in areas that are designated nonattainment for a given air quality standard for the first time. Therefore, transportation conformity requirements for transportation plans, transportation improvement programs, and projects began to apply in PM2.5 nonattainment areas on April 5, 2006.

Page 4.6-10: Please describe how the peak time period shown in Table 4.6-6 was determined. This also applies to similar tables in the section, such as Table 4.6-9 and Table 4.6-13.

Page 4.6-16, Localized Impacts in NJ section, the third line of the first paragraph: It appears that "beyond" should be "within."

Page 4.6-17, NY Mobile Source Analysis section, first paragraph: Please cite the transportation conformity rule requirement for projects that require a qualitative PM2.5 and/or PM10 hot-spot analysis (40 CFR 93.123(b)) first, then indicate that the project does not result in a significant increase in diesel vehicle trips and therefore no PM2.5 or PM10 hot-spot analysis is required.

Page 4.6-22, the last sentence in the first paragraph: This is inconsistent with the statement on page 4.6-17 in the first paragraph of the NY Mobile Source Analysis section which states that existing violations are not made worse because there is no significant increase in diesel vehicle trips.

Appendix 4.6

Page 1, Data Requirements: The table should include entries for background air quality data and meteorological data.

Page 3: The third bullet describes how the carbon monoxide (CO) screening analysis will be done. As such, it would be more appropriate immediately following the last bullet on page 2 which describes the criteria for selecting locations for the CO screening analysis.

Page 3, seventh bullet: The transportation conformity rule requires that analysis year(s) be the year with the highest combination of emissions from the project and background air quality, not necessarily the design year for the project. (40 CFR 93.116(a) and 69 FR 40056-8)

Pages 4 and 5, Estimate Construction Phase Impacts: Add gathering background air quality data as a step.

Chapter 5.6

Pages 5.6-33 and 34: The reason for the discrepancy between construction years (2009-2016) and analysis years (2007-2014) is unclear, as is the statement regarding the use of 2008 for the cumulative impacts analysis even though the peak year was identified as 2010.

Page 5.6-39, Table 5.6-4: It is not clear that the entries marked as "NA" are actually "not applicable." It would be more appropriate to include the calculated impact; otherwise an explanation of what is meant by not applicable needs to be included in the text. This same comment applies to Table 5.6-9.

Page 5.6-44, Compliance with Project-level Conformity Criteria: This section correctly points out the need to identify additional mitigation measures in Manhattan during the construction phase in order to eventually make a conformity determination. However, for transportation conformity purposes only the increase caused by the project needs to be mitigated, not the overall violation of the NAAQS. So, in this case based on the results of the analysis presented on pages 5.6-42 and 43, mitigation would be needed to reduce the predicted concentration back down to 16.8 $\mu g/m^3$ rather than 15.0 $\mu g/m^3$ is necessary.

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."